

**AGENDA MEMO****PLANNING COMMISSION MEETING DATE: JANUARY 10, 2008****DEPARTMENT: PLANNING AND DEVELOPMENT****ITEM DESCRIPTION: TXT-25685 - APPLICANT: CITY OF LAS VEGAS**

**** CONDITIONS ******STAFF RECOMMENDATION: APPROVAL, subject to the following:**

1. That Title 19.18.030(H), "City Council Public Hearing and Action," is hereby amended as follows:

19.18.030 GENERAL PLAN AMENDMENT**H. City Council Public Hearing and Action**

1. **Hearing.** Subject to the provisions of Section 19.18.030(C)(7), the City Council shall consider a proposed General Plan Amendment and the recommendation of the Planning Commission thereon at the next available meeting following the receipt of the recommendation.

2. **Notice.** For any application that is forwarded to the Council, written notice of the Council hearing shall be mailed at least 10 days before the hearing by the City Clerk to the property owners who were notified by mail of the Planning Commission hearing.

3.2. City Council Action.

- a. **Decision.** The City Council may approve, approve with conditions, or deny a proposed General Plan Amendment. In making a decision to approve the proposed General Plan Amendment, the City Council shall consider the recommendation of the Planning Commission and the facts presented at the public hearing. The City Council may consider the amendment of only a portion of the land described in the application or may amend all or a portion of the application to a more restrictive land use category.
- b. **Change to More Restrictive Category.** If at the Council hearing, the applicant proposes amending the application to a more restrictive land use category, the City Council has the option to refer the application back to the Planning Commission for consideration.

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- c. **Significant Changes.** If the applicant proposes significant changes to the application during the hearing or if new information is presented that significantly changes the nature and scope of the application, the request should be referred back to the Planning Commission for consideration.

4.3. Notice of City Council Decision. Following the hearing on a proposed General Plan Amendment, the City Council shall reach a decision concerning the proposal. The decision shall include reasons for the decision and, if the decision is to approve the Amendment, any modifications, conditions or limitations that the Council may impose. Written notice of the decision shall be provided to the applicant, agent or both. A copy of the notice shall also be filed with the City Clerk, and the date of the notice shall be deemed to be the date that notice of the decision is filed with the City Clerk.

- 2. That Title 19.18.040(J), "City Council Public Hearing and Action," is hereby amended as follows:

19.18.040 REZONING

J. City Council Public Hearing and Action

- 1. **Hearing.** The City Council shall consider the proposed rezoning and the recommendation of the Planning Commission at the next available meeting following the receipt of the recommendation.
- 2. **Notice.** For any application that is forwarded to the Council, written notice of the Council hearing shall be mailed at least 10 days before the hearing by the City Clerk to the property owners who were notified by mail of the Planning Commission hearing.

3.2. City Council Decision.

- a. **Decision.** The City Council may approve, approve with conditions, or deny an application for a rezoning. In considering whether to approve or deny an application, the City Council may consider the rezoning of only a portion of the land described in the application for rezoning or amend all or a portion of the application to a more restrictive zoning classification.

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- b. **Change to More Restrictive Zoning.** If, at the public hearing, the applicant proposes amending the rezoning application to a more restrictive zoning classification, the City Council may act on the request or refer the application back to the Planning Commission for consideration.
 - c. **Significant Changes to Application.** If the applicant proposes significant changes to the application during the hearing, or if new information is presented that significantly changes the nature and scope of the application, the request should be referred back to the Planning Commission for consideration.
 - 3. **Notice of City Council Decision.** Following the hearing on a proposed rezoning, the City Council shall reach a decision concerning the proposal. The decision shall include the reasons for the decision and, if the decision is to approve the rezoning, any modifications, conditions or limitations that the Council may impose. Written notice of the decision shall be provided to the applicant or his agent, or both. A copy of the notice shall also be filed with the City Clerk, and the date of the notice shall be deemed to be the date that notice of the decision is filed with the City Clerk.
3. That Title 19.18.050(G)(2), "Major Review Process," is hereby amended as follows:

19.18.050 SITE DEVELOPMENT PLANS

(G)(2) Major Review Process

- d. **Planning Commission ~~Action~~ Hearing.** After interested City Departments have had the opportunity for comment and the Department of Planning and Development has conducted its review, each application for Major Review shall be presented to the Planning Commission. ~~If, in the opinion of the Planning Commission, the proposed development could have a negative impact upon surrounding and nearby uses, the item may be delayed or held in abeyance for notification of surrounding property owners to the extent deemed necessary by the Planning Commission.~~
- e. **Planning Commission Notice.** Notice of the time, place and purpose of the hearing must be given at least 10 days before the hearing by:
 - 1) Publishing the notice in a newspaper of general circulation within the City;

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2) Mailing a copy of the notice to:

- A) The applicant;
- B) Each owner of real property located within a minimum of one thousand feet of the property described in the application;
- C) Each tenant of any mobile home park that is located within one thousand feet of the property described within the application;
- D) The owner of each of the thirty separately-owned parcels nearest to the property described in the application to the extent this notice does not duplicate the notice otherwise required by this Paragraph 2;
- E) Any advisory board which has been established for the affected area by the City Council; and
- F) The president or head of any registered local neighborhood organization whose organization boundaries are located within a minimum of one mile of the property described in the application.

f.e. Planning Commission Decision. In making its final decision, the Planning Commission shall consider the recommendation of the City Departments, the evidence presented at the hearing and the criteria set forth in Section (F) of this subchapter. The Planning Commission may approve, approve with conditions, or deny an application for a Major Development Review. All actions by the Planning Commission are final unless:

- 1) An appeal is filed by the applicant in accordance with Paragraph (f) below;
- 2) Otherwise required by prior action of the City Council; or
- 3) In the case of Planning Commission approval, a member of the City Council files with the City Clerk, within 10 days following the approval, a written request for the Council to review the approval.

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g.f. Appeal of Planning Commission Action. If the applicant is aggrieved by the Planning Commission's denial of an application, or by any condition imposed upon an approval, the applicant may appeal the decision to the City Council by written request. The appeal must be filed in the Office of the City Clerk within 10 days after the Planning Commission's action.

h.g. City Council Action. All Major Development Reviews requiring review by the City Council shall be forwarded to the Office of the City Clerk and shall be placed on the next available City Council agenda.

i. City Council Notice. For any application that is forwarded to the Council, written notice of the Council hearing shall be mailed at least 10 days before the hearing by the City Clerk to the property owners who were notified by mail of the Planning Commission hearing.

j.h. City Council Decision. In making its final decision, the City Council shall consider the recommendation of the City Departments and the Planning Commission, the evidence presented at the hearing and the criteria set forth in Section (F) of this subchapter. The City Council may approve, approve with conditions, or deny an application for a Major Development Review. All actions by the City Council are final. Written notice of the decision shall be provided to the applicant, agent or both. A copy of the notice shall also be filed with the City Clerk, and the date of the notice shall be deemed to be the date notice of the decision is filed with the City Clerk.

4. That Title 19.18.060(K), "City Council Public Hearing," is hereby amended as follows:

K. City Council Public Hearing

1. ~~Notice and~~ **Hearing.** The City Council shall conduct a public hearing on all Special Use Permit applications which are appealed or are forwarded to the Council for final action. ~~For any application that is appealed to the Council, written notice of the Council hearing shall be mailed at least 10 days before the hearing to the property owners who were notified by mail of the Planning Commission hearing.~~

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2. **Notice.** For any application that is forwarded to the Council, written notice of the Council hearing shall be mailed at least 10 days before the hearing by the City Clerk to the property owners who were notified by mail of the Planning Commission hearing.

3.2. **City Council Decision.** The City Council may approve, approve with conditions, or deny a Special Use Permit application. IN so doing, the City Council shall consider the recommendation of the Planning Commission and the evidence presented at the public hearing, and shall be guided by the statement of purpose underlying the regulation of the improvement of land expressed in NRS 278.020. Action by the City Council is final for purposes of judicial review. In the case of an appeal, the City Council:

- a) May not grant to an aggrieved person more than two continuances on the same matter, unless the Council determines, upon good cause shown, that the granting of additional continuances is warranted; and
- b) Must render its decision within forty-five days, unless otherwise agreed to by the person filing the appeal.

4.3. **Notice of City Council Decision.** The City Council shall provide written notice of its decision, which shall include the reasons for the decision and if the decision is to approve the Special Use Permit, any modifications, conditions or limitations that the City Council may impose. The notice shall be provided to the owner, developer or agent. A copy of the notice shall also be filed with the City Clerk, and the date of the notice shall be deemed to be the date notice of the decision is filed with the City Clerk.

5. That Title 19.18.070(K), "City Council Public Hearing and Action," is hereby amended as follows:

K. City Council Public Hearing and Action

1. **Notice Hearing.** The City Council shall conduct a public hearing on any Variance application which is appealed or forwarded to the Council for final action. The City Clerk is authorized to consolidate all appeals or requests for review that have been filed regarding a particular application, or to schedule them in sequence or otherwise, in which case the City Council may hear the items separately or consolidate them for purposes of

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hearing, as the Council deems appropriate. ~~For any application that is appealed to the Council or that is requested for review by a member of the Council, written notice of the Council hearing shall be mailed at least ten days before the hearing to the property owners who were notified by mail of the Planning Commission hearing.~~

2. **Notice.** For any application that is forwarded to the Council, written notice of the Council hearing shall be mailed at least 10 days before the hearing by the City Clerk to the property owners who were notified by mail of the Planning Commission hearing.

3.2. **Penalty.** If a structure which is the subject of a Variance application has been or is being constructed without a building permit and is in violation of any of the provisions of this Title, the City Council, in granting the Variance, may impose a penalty in an amount that does not exceed 10 percent of the value of the structure as determined in accordance with the City's Administrative Code.

4.3. **City Council Decision.** The City Council may review the Variance application de novo, and has the authority to reverse, modify, or confirm any action of the Planning Commission. In making a decision regarding a Variance application, the City Council shall consider the decision of the Planning Commission and the evidence presented at the public hearing and shall be guided by the statement of purpose underlying the regulation of the improvement of land expressed in NRS 278.020. Action by the City Council is final for purposes of judicial review. In the case of an appeal, the City Council:

- a) May not grant to an aggrieved person~~al~~ more than two continuances on the same matter, unless the Council determines, upon good cause shown, that the granting of additional continuances is warranted; and
- b) Must render its decision within forty-five days, unless otherwise agreed to by the person filing the appeal.

5.4. **Notice of City Council Decision.** The City Council shall provide written notice of its decision, which shall include the reasons for the decision and, if the decision is to approve the Variance, any modifications, conditions or limitations that the Council may impose. The notice shall be provided to the owner, developer or agent. A copy of the notice shall also be filed with the City Clerk, and the date of the notice shall be deemed to be the date notice of the decision is filed with the City Clerk.

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**** STAFF REPORT ****

APPLICATION REQUEST

This is a request for discussion and possible action to amend Title 19.18 to amend the public notice requirements for entitlement applications that are forwarded to City Council.

EXECUTIVE SUMMARY

The proposed amendment requires that public hearing notices be mailed to affected property owners prior to City Council meetings for most entitlement applications. This practice is not specified currently by the Las Vegas Municipal Code. As the inclusion of this language will improve public notice processes and improve communication with the public, staff recommends approval.

BACKGROUND INFORMATION

Title 19 lists public notice requirements for Planning Commission hearings, but generally does require mailings for applications that are forwarded to City Council. Currently, no public hearing mailings are required for the following applications heard by City Council:

- General Plan Amendments
- Rezoning
- Site Development Plan Reviews
- Special Use Permits
- Variances

While notices are published in the newspaper, many residents complain that they have not received adequate notification. The proposed amendment seeks to correct this situation.

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ANALYSIS

The following table lists the proposed changes to the public hearing notice requirements, as compared with the requirements from Nevada Revised Statutes (NRS):

General Plan Amendment Title 19.18.030	NRS	Planning Commission Notification	City Council Notification
GPA – Existing Requirements	Commission: <ul style="list-style-type: none"> • Newspaper publication at least 10 days before the hearing • Applicant must hold neighborhood meeting and notify owners within 750' (or 30 parcels) and tenants of a mobile home park within 750' Governing Body: <ul style="list-style-type: none"> • Notice must be published in a newspaper at least 10 days before the hearing 	Notice must be given at least 10 days before the hearing by: <ul style="list-style-type: none"> • Newspaper publication • Mailing to applicant • Mailing to each owner within 1000' (or 30 parcels) • Mailing to each tenant of a mobile home park within 1000' • Any advisory board • Mailing to neighborhood organization within 1 mile • Erect sign 	No notice requirements listed
GPA – Proposed Requirements		<i>No change</i>	<i>City Clerk shall notify same property owners by mail 10 days before hearing</i>
Rezoning Title 19.18.040	NRS	Planning Commission Notification	City Council Notification
Rezoning – Existing Requirements	Notice must be sent at least 10 days before the hearing to: <ul style="list-style-type: none"> • Applicant • Each owner within 750' (or 30 parcels) • Each tenant of a mobile home park within 750' • Any advisory board 	Notice must be given at least 10 days before the hearing by: <ul style="list-style-type: none"> • Newspaper publication • Mailing to applicant • Mailing to each owner within 1000' (or 30 parcels) • Mailing to each tenant of a mobile home park within 1000' • Any advisory board • Mailing to neighborhood organization within 1 mile • Erect sign 	No notice requirements listed
Rezoning – Proposed Requirements		<i>No change</i>	<i>City Clerk shall notify same property owners by mail 10 days before hearing</i>

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Site Development Plans Title 19.18.050	NRS	Planning Commission Notification	City Council Notification
Site Development Plans – Existing Requirements	No notice requirements listed	No notice requirements listed	No notice requirements listed
Site Development Plans – Proposed Requirements		<i>Notice must be given at least 10 days before the hearing by:</i> <ul style="list-style-type: none"> • Newspaper publication • Mailing to applicant • Mailing to each owner within 1000' (or 30 parcels) • Mailing to each tenant of a mobile home park within 1000' • Any advisory board • Mailing to neighborhood organization within 1 mile 	<i>City Clerk shall notify same property owners by mail 10 days before hearing</i>
Special Use Permit Title 19.18.060	NRS	Planning Commission Notification	City Council Notification
Special Use Permit – Existing Requirements	Projects of Regional Significance – mailing at least 10 days before the hearing to: <ul style="list-style-type: none"> • Applicant • Each owner within 750' (or 30 parcels) • Each tenant of a mobile home park within 750' Alcohol (principal use, on- or off-premise) – mailing at least 10 days before hearing to: <ul style="list-style-type: none"> • Applicant • Each owner within 1500' (or 30 parcels) • Each tenant of a mobile home park within 1500' • Any advisory board • Erect sign 	Notice must be given at least 10 days before the hearing by: <ul style="list-style-type: none"> • Newspaper publication • Mailing to applicant • Mailing to each owner within 1000' (or 30 parcels) or 1500' for alcohol • Mailing to each tenant of a mobile home park within 1000' or 1500' for alcohol • Any advisory board • Mailing to neighborhood organization within 1 mile • Erect sign 	Written notice must be mailed to the property owners who were notified by mail of the Planning Commission hearing
Special Use Permit – Proposed Requirements		<i>No change</i>	<i>Changed to specify that the City Clerk shall provide written notice</i>

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Variance Title 19.18.070	NRS	Planning Commission Notification	City Council Notification
Variance – Existing Requirements	Notice must be sent at least 10 days before the hearing to: <ul style="list-style-type: none"> • Applicant • Each owner within 100' (10%-30% deviation) or 500' (>30% deviation) • Each tenant of a mobile home park within 100' (10%-30% deviation) or 500' (>30% deviation) • Any advisory board • Erect sign 	Notice must be given at least 10 days before the hearing by: <ul style="list-style-type: none"> • Newspaper publication • Mailing to applicant • Mailing to each owner within 1000' (or 30 parcels) • Mailing to each tenant of a mobile home park within 1000' • Any advisory board • Mailing to neighborhood organization within 1 mile 	Written notice must be mailed to the property owners who were notified by mail of the Planning Commission hearing
Variance – Proposed Requirements		<i>No change</i>	<i>Changed to specify that the City Clerk shall provide written notice</i>

It should be noted that mailings are not currently sent out prior to Planning Commission or City Council for Site Development Plan Review applications; the proposed language will require mailings for both hearings. In addition, the proposed amendment conforms to or exceeds the requirements listed in Nevada Revised Statutes for public notification procedures.

FINDINGS

The proposed amendment will achieve the following:

- Noticing procedures will be specifically identified in Title 19 for applications that are forwarded to City Council;
- Public hearing notices will now be required for Site Development Plan Review applications; and
- NRS requirements will be met or exceeded through adoption of the proposed language.

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NEIGHBORHOOD ASSOCIATIONS NOTIFIED N/A

ASSEMBLY DISTRICT N/A

SENATE DISTRICT N/A

NOTICES MAILED NEWSPAPER ONLY

APPROVALS 0

PROTESTS 0